

² 5 U.S.C. § 8101 *et seq.*

to establish a recurrence of disability commencing May 26, 2020 causally related to his accepted December 9, 2019 employment injury.

FACTUAL HISTORY

On December 10, 2019 appellant, then a 30-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on December 9, 2019 he bruised his left knee and hip when he fell down stairs while in the performance of duty. He stopped work on December 10, 2019. Appellant performed light-duty work from December 10 through 17, 2019 and returned to full-duty work on December 18, 2019. On June 19, 2020 OWCP accepted the claim for resolved contusions of the left knee and hip.

In a note dated December 16, 2019, Dr. Nikolai LaGoduke, an internist, reported his findings regarding appellant's work-related left hip and knee injuries on December 9, 2019. He found that his gait and stance, and range of motion and strength in his left hip and knee were all normal. Dr. LaGoduke reported that appellant's left knee and hip contusions had resolved. He released him to return to full-duty work.

On June 17, 2020 appellant filed a notice of recurrence (Form CA-2a) alleging that on May 23, 2020 he sustained a recurrence of his diagnosed conditions and on May 26, 2020 he stopped work due to these conditions. He noted that he performed modified duties for one week following his December 9, 2019 employment injury.

In a June 19, 2020 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a questionnaire for his completion. OWCP afforded him 30 days to respond.

On June 1 and 15, 2020 Dr. Keiron Greaves, a pain medicine physician, examined appellant due to back pain. He noted that appellant had fallen downstairs at work injuring his left knee and hip. Dr. Greaves reported that appellant was experiencing back and leg pain such that he was unable to walk. He diagnosed acute left-sided low back pain with left-sided sciatica. Dr. Greaves found that appellant was totally disabled from work.

In July 9 and 13, 2020 notes, Dr. Praveen Yalamanchili, a Board-certified orthopedic surgeon, described appellant's history of injury and diagnosed lumbar disc herniation with radiculopathy based on a June 23, 2020 lumbar magnetic resonance imaging (MRI) scan. He opined that his condition and symptoms originated from the December 9, 2019 employment injury and found that he was totally disabled from work.

On July 13, 2020 appellant completed OWCP's development questionnaire and indicated that, after he returned to work, he continued to experience left hip and leg pain. He asserted that on May 23, 2020 the pain worsened and on May 24, 2020 he could not move. Appellant recounted that he continued to walk 18 to 20 miles a day delivering mail until the pain in his left hip and leg became intolerable.

By decision dated August 13, 2020, OWCP denied appellant's recurrence claim, finding that the medical evidence of record was insufficient to establish a recurrence of disability, commencing May 26, 2020, causally related to his accepted employment injury. It noted that his

physicians had not explained how he sustained a herniated disc due to the December 9, 2019 employment injury.

On November 17 and December 4, 2020 appellant, through counsel, requested reconsideration and asserted that the acceptance of his claim should be expanded to include lumbar spine conditions.

In reports dated October 8, 23, and 24, 2020, Dr. David Estin, a Board-certified neurosurgeon, noted appellant's history of a fall downstairs in December 2019 while in the performance of duty and the accepted left knee and hip contusions. He described his employment duties after the accepted injury and noted that his back symptoms progressively worsened. Dr. Estin reviewed appellant's lumbar MRI scan and noted that he exhibited atrophy of his left thigh and calf. He diagnosed a large disc herniation at L5-S1 on the left. Dr. Estin noted that appellant was well until his employment-related fall and opined that this caused a herniated disc at L5-S1. He recommended surgery and found that he was totally disabled.

By decision dated March 9, 2021, OWCP denied modification of its prior decision.

LEGAL PRECEDENT -- ISSUE 1

When an employee claims that, a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.³

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁴ The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.⁶

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish that his claim should be expanded to include an additional condition causally related to his accepted employment injury.

³ *S.B.*, Docket No. 19-0634 (issued September 19, 2019).

⁴ *T.K.*, Docket No. 18-1239 (issued May 29, 2019).

⁵ *R.P.*, Docket No. 18-1591 (issued May 8, 2019).

⁶ *Id.*

In his July 9 and 13, 2020 reports, Dr. Yalamanchili diagnosed lumbar disc herniation with radiculopathy. He attributed the disc herniation to appellant's December 9, 2019 employment injury. These reports, however, fail to provide rationale explaining causal relationship between appellant's lumbar disc herniation and the December 9, 2019 accepted employment injury or as a consequence of the accepted left hip and knee contusions. Dr. Yalamanchili's opinion is, therefore, of limited probative value and insufficient to establish expansion of the claim.⁷

Dr. Estin, in reports dated October 8, 23, and 24, 2020, noted the accepted December 9, 2019 employment injury and described appellant's employment duties following the accepted injury. He diagnosed a large disc herniation at L5-S1 on the left. Dr. Estin noted that he was well until his employment-related fall and opined that, therefore, this fall caused his back condition. The Board has held that the fact that a condition manifests itself during a period of employment is insufficient to establish causal relationship. Temporal relationship alone will not suffice.⁸

Dr. Greaves examined appellant due to back pain on June 1 and 15, 2020 and provided an accurate history of injury. He diagnosed acute left-sided low back pain with left-sided sciatica. Dr. Greaves offered no opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.⁹

As the medical evidence of record is insufficient to establish expansion of the acceptance of the claim to include an additional condition causally related to his accepted December 9, 2019 employment injury, the Board finds that appellant has not met his burden of proof.

LEGAL PRECEDENT -- ISSUE 2

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition, which resulted from a previous compensable injury or illness and without an intervening injury or new exposure in the work environment.¹⁰ This term also means an inability to work because a light-duty assignment made specifically to accommodate an employee's physical limitations and which is necessary because of a work-related injury or illness, is withdrawn or altered so that the assignment exceeds the employee's physical limitations. A recurrence does not occur when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force.¹¹

OWCP's procedures provide that a recurrence of disability includes a work stoppage caused by a spontaneous material change in the medical condition demonstrated by objective

⁷ *M.M.*, Docket No. 20-1557 (issued November 3, 2021).

⁸ *Z.S.*, Docket No. 19-1010 (issued October 1, 2020); *S.S.*, Docket No. 19-0675 (issued August 22, 2019); *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *Daniel O. Vasquez*, 57 ECAB 559 (2006).

⁹ *See H.T.*, Docket No. 20-1238 (issued July 12, 2021); *D.W.*, Docket No. 18-1139 (issued May 21, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁰ 20 C.F.R. § 10.5(x); *M.M.*, *supra* note 7; *J.D.*, Docket No. 18-1533 (issued February 27, 2019).

¹¹ *Id.*

findings. That change must result from a previous injury or occupational illness rather than an intervening injury or new exposure to factors causing the original illness. It does not include a condition that results from a new injury, even if it involves the same part of the body previously injured.¹²

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of proof to establish by the weight of the substantial, reliable, and probative evidence that the disability for which he or she claims compensation is causally related to the accepted employment injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that, for each period of disability claimed, the disabling condition is causally related to the employment injury, and supports that conclusion with medical reasoning.¹³ Where no such rationale is present, the medical evidence is of diminished probative value.¹⁴

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met his burden of proof to establish a recurrence of disability, commencing May 26, 2020, causally related to his accepted December 9, 2019 employment injury.

In support of his claim, appellant submitted June 1 and 15, 2020 notes from Dr. Greaves, diagnosing acute left-sided low back pain with left-sided sciatica and finding that appellant was totally disabled. Similarly, in July 9 and 13, 2020 notes, Dr. Yalamanchili diagnosed lumbar disc herniation with radiculopathy and found that he was totally disabled. In reports dated October 8, 23 and 24, 2020, Dr. Estin noted the accepted December 9, 2019 employment injury and diagnosed a large disc herniation at L5-S1 on the left finding that appellant was totally disabled from work.

Drs. Greaves, Yalamanchili, and Estin attributed appellant's disability from work on and after May 26, 2020 to conditions of the lumbar spine, including a herniated disc, a condition not accepted as employment related. None of the medical evidence of record attributes his disability for work to his accepted left hip and knee contusions. Therefore, the reports of Drs. Greaves, Yalamanchili, and Estin are of no probative value in establishing a recurrence of disability as they do not contain an opinion that appellant was disabled from work commencing May 26, 2020 causally related to his accepted employment injuries.¹⁵

As the medical evidence of record does not contain a medical opinion establishing causal relationship between appellant's claimed recurrence of disability and the accepted December 9, 2019 employment injuries, the Board finds that he has not met his burden of proof.

¹² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2 (June 2013); *F.C.*, Docket No. 18-0334 (issued December 4, 2018).

¹³ *L.O.*, Docket No. 19-0953 (issued October 7, 2019); *J.D.*, Docket No. 18-0616 (issued January 11, 2019).

¹⁴ *M.G.*, Docket No. 19-0610 (issued September 23, 2019); *G.G.*, Docket No. 18-1788 (issued March 26, 2019).

¹⁵ *Supra* note 15.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that the acceptance of his claim should be expanded to include an additional condition causally related to his accepted December 9, 2019 employment injury. The Board further finds that he has not met his burden of proof to establish a recurrence of disability commencing May 26, 2020 causally related to his accepted December 9, 2019 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the March 9, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 9, 2022
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board